

01/05/98

135 U.S. Pat.

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PTO/SB/05 (12/97) (modified)  
Approved for use through 09/30/00. OMB 0651-0032  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCEUTILITY  
PATENT APPLICATION  
TRANSMITTAL


Attorney Docket No.	261922003302	Total Pages	45
First Named Inventor or Application Identifier			
Albert J.J. van Ooyen et al.			
Express Mail Label No.	EH493640852US		

Only for new nonprovisional applications under 37 CFR 1.53(b))

## CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EH493640852US Date of Deposit: 5 January 1998

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Kristy N. Canales

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

1. ☒ Fee Transmittal Form  
(Submit an original, and a duplicate for fee processing)
2. ☒ Specification [Total Pages 34]  
(preferred arrangement set forth below)
  - Descriptive title of the Invention
  - Cross References to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to Microfiche Appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
3. ☒ Drawing(s) (35 USC 113) [Total Sheets 7]
4. Oath or Declaration [Total Pages 4]
  - a. ☐ Newly executed (original or copy)
  - b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 17 completed)  
[Note Box 5 below]
  - i. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)
5. ☒ Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)
7. Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)
  - a. ☐ Computer Readable Copy
  - b. ☐ Paper Copy (identical to computer copy)
  - c. ☐ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

8. ☐ Assignment Papers (cover sheet & document(s))
9. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney  
(when there is an assignee)
10. ☐ English Translation Document (if applicable)
11. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
12. ☒ Preliminary Amendment
13. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
14. ☐ Small Entity ☐ Statement filed in prior application,  
Statement(s) Status still proper and desired
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☐

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: 08/253,575 FILED 3 June 1994

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18. CORRESPONDENCE ADDRESS

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- ☒ If a paper is untimely filed in the above-referenced application by applicant or his/her representative, the Assistant Commissioner is hereby petitioned under 37 C.F.R. § 1.136(a) for the minimum extension of time required to make said paper timely. In the event a petition for extension of time is made under the provisions of this paragraph, the Assistant Commissioner is hereby requested to charge any fee required under 37 C.F.R. § 1.17(a)-(d) to **Deposit Account No. 03-1952**. However, the Assistant Commissioner is **NOT** authorized to charge the cost of the issue fee to the Deposit Account.

The filing fee has been calculated as follows:

FOR	NUMBER FILED	NUMBER EXTRA	RATE	CALCULATIONS
TOTAL CLAIMS	43- 20 =	23	x \$22.00	\$506.00
INDEPENDENT CLAIMS	3- 3 =	0	x \$82.00	\$0
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$270.00	\$0
			BASIC FEE	\$790.00
			TOTAL OF ABOVE CALCULATIONS =	\$1,296.00
Reduction by 1/2 for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27, 1.28). If applicable, verified statement must be attached.				\$774.00
Assignment Recording Fee (if enclosed)				\$0
			TOTAL =	\$1,296.00

- ☒ A check in the amount of \$1,296.00 is attached.
- ☐ Charge \$1,296.00 to **Deposit Account No. 03-1952** referencing docket no. 261922003302.

Applicant(s) hereby petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees or to credit any overpayment to **Deposit Account No. 03-1952** referencing docket no. 261922003302. A duplicate copy of this transmittal is enclosed, for that purpose.

Dated: 5 January 1998

Respectfully submitted,

By: Kate H. Murashige  
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I. CLASSIFICATION OF SUBJECT MATTER (If several classification symbols apply, indicate all)<sup>6</sup>

According to International Patent Classification (IPC) or to both National Classification and IPC

Int.Cl. 5 C12N15/56; C12N15/82; A01H5/00; C12N1/21

## II. FIELDS SEARCHED

Minimum Documentation Searched<sup>7</sup>

Classification System

Classification Symbols

Int.Cl. 5

C12N ; A01H

Documentation Searched other than Minimum Documentation  
to the extent that such Documents are Included in the Fields Searched<sup>8</sup>III. DOCUMENTS CONSIDERED TO BE RELEVANT<sup>9</sup>

Category <sup>9</sup>	Citation of Document, <sup>11</sup> with indication, where appropriate, of the relevant passages <sup>12</sup>	Relevant to Claim No. <sup>13</sup>
X	THE PLANT CELL vol. 1, no. 1, January 1989, pages 53 - 63; GIOVANNONI J. J., ET.AL.: 'Expression of a chimeric polygalacturonase gene in transgenic rin <ripening inhibitor> tomato fruit results in polyuronide degradation but not fruit softening' see the whole document ---	1-4, 6, 11, 12, 14-18
X	DD,A,275 704 (AKADEMIE DER WISSENSCHAFTEN DER DDR) 31 January 1990	12, 14, 15
Y	see the whole document	1-4, 6-8, 16-18
Y	WO,A,9 001 551 (ROGERS) 22 February 1990  see page 36, line 15 - line 17; example 2 ---	1-4, 6-8, 16-18
	--- -/-	

<sup>9</sup> Special categories of cited documents: <sup>10</sup><sup>"A"</sup> document defining the general state of the art which is not  
considered to be of particular relevance<sup>"E"</sup> earlier document but published on or after the international  
filing date<sup>"L"</sup> document which may throw doubts on priority claim(s) or  
which is cited to establish the publication date of another  
citation or other special reason (as specified)<sup>"O"</sup> document referring to an oral disclosure, use, exhibition or  
other means<sup>"P"</sup> document published prior to the international filing date but  
later than the priority date claimed<sup>"T"</sup> later document published after the international filing date  
or priority date and not in conflict with the application but  
cited to understand the principle or theory underlying the  
invention<sup>"X"</sup> document of particular relevance; the claimed invention  
cannot be considered novel or cannot be considered to  
involve an inventive step<sup>"Y"</sup> document of particular relevance; the claimed invention  
cannot be considered to involve an inventive step when the  
document is combined with one or more other such docu-  
ments, such combination being obvious to a person skilled  
in the art.<sup>"&"</sup> document member of the same patent family

## IV. CERTIFICATION

Date of the Actual Completion of the International Search

02 DECEMBER 1991

Date of Mailing of this International Search Report

09. 12. 91

International Searching Authority

EUROPEAN PATENT OFFICE

Signature of Authorized Officer

MADDOX A.D.

III. DOCUMENTS CONSIDERED TO BE RELEVANT (CONTINUED FROM THE SECOND SHEET)		Relevant to Claim No.
Category °	Citation of Document, with indication, where appropriate, of the relevant passages	
X	EMBO JOURNAL. vol. 8, no. 2, February 1989, EYNHAM, OXFORD GB pages 343 - 350; TEERI, T. H., ET.AL.: 'Gene fusions to lacZ reveal new expression patterns of chimeric genes in transgenic plants' see the whole document ---	12, 13, 15-18
X	WO,A,8 908 145 (BIOSOURCE GENETICS) 8 September 1989  see examples 11-13 ---	1-3, 7, 11, 12, 15, 16, 18
P, X	WO,A,9 012 876 (AKTIESELSKABET DANSKE SPRITFABRIKKER) 1 November 1990 cited in the application see example 25 ---	12-17
E	WO,A,9 114 772 (MOGEN) 3 October 1991  see examples 14, 15 ---	12, 13, 15-17

# ANNEX TO THE INTERNATIONAL SEARCH REPORT ON INTERNATIONAL PATENT APPLICATION NO. NL 9100171 SA 51640

This annex lists the patent family members relating to the patent documents cited in the above-mentioned international search report. The members are as contained in the European Patent Office EDP file or:  
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information. 02/12/91

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
DD-A-275704		None	
WO-A-9001551	22-02-90	AU-A- 4037289 EP-A- 0428572	05-03-90 29-05-91
WO-A-8908145	08-09-89	AU-A- 4072589 EP-A- 0406267 JP-T- 3502886	22-09-89 09-01-91 04-07-91
WO-A-9012876	01-11-90	AU-A- 5531890	16-11-90
WO-A-9114772	03-10-91	EP-A- 0449375 EP-A- 0449376 WO-A- 9114782	02-10-91 02-10-91 03-10-91

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